

1 LAUREN M. BLAS, SBN 296823
lblas@gibsondunn.com
2 GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
3 Los Angeles, CA 90071-3197
Telephone: 213.229.7000
4 Facsimile: 213.229.7520

5 GEOFFREY SIGLER (*pro hac vice*)
gsigler@gibsondunn.com
6 GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
7 Washington, D.C. 20036-5306
Telephone: 202.995.8500
8 Facsimile: 202.467.0539

9 Attorneys for Defendants
10 UNITED HEALTHCARE INSURANCE COMPANY
and UNITED BEHAVIORAL HEALTH
11

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 LD, DB, BW, RH, and CJ, on behalf of
16 themselves and all others similarly situated,

17 Plaintiffs,

18 v.

19 UNITED HEALTHCARE INSURANCE
COMPANY, a Connecticut Corporation,
20 UNITED BEHAVIORAL HEALTH, a
California Corporation, and MULTIPLAN,
21 INC., a New York Corporation,

22 Defendants.
23
24
25
26
27
28

Case No. 4:20-cv-02254-YGR

**DECLARATION OF JEFF SCHNEEWIND
IN SUPPORT OF OMNIBUS SEALING
MOTION**

1 I, Jeff Schneewind, state and declare as follows:

2 1. I make this declaration in connection with the above-captioned litigation and the
3 omnibus sealing motion regarding Plaintiffs' Renewed Motion for Class Certification. I have
4 personal knowledge of the facts set forth in this Declaration, and, if called as a witness, could and
5 would testify competently to such facts under oath.

6 2. I am employed as Director of Contracts Legal for UnitedHealthcare. In this role, I am
7 familiar with the matters and documents discussed in this Declaration.

8 3. Defendants United Behavioral Health ("UBH") and United Healthcare Insurance
9 Company ("UHC") (together, "United" or "United Defendants") submit the information contained in
10 this declaration in further support of their requests to seal Exhibit 25 to the Declaration of Matt Lavin
11 in support of Plaintiffs' Motion (Dkt 397-24) ("Exhibit 25 to Plaintiffs' Motion") and Exhibits 48 to
12 57 to the Declaration of Jeff Schneewind in Support of Defendants' Opposition to Plaintiffs'
13 Renewed Motion for Class Certification (Dkt. 406) ("my Declaration").

14 4. The materials contained within these exhibits include ASAs and amendments between
15 United entities and ten different plan sponsors. These agreements are individually negotiated
16 between United and each plan sponsor and contain plan sponsor-specific pricing and rate
17 information, performance guarantees, audit procedures, security procedures, proprietary program
18 offerings, indemnification provisions, and dispute resolution mechanisms as between United and a
19 plan sponsor, including mediation, litigation, and settlement arrangements. Information can change
20 from year to year depending on the plan sponsor's and United's contract negotiations and overall
21 business relationship.

22 5. As a general matter, United does not share the information contained within a given
23 ASA outside of those involved in the relationship with the associated plan sponsor, and in particular,
24 it does not share the ASA of one plan sponsor with another plan sponsor. That is because each ASA
25 contains unique terms and provisions that not every plan sponsor receives. For example, plan
26 sponsors come in many different sizes and have different requirements and needs with respect to the
27 purpose a health plan serves for their employee populations. As such, they may contract with United
28 for a different bundle of services, performance guarantees, or rates for particular services than other

1 plan sponsors receive. Public disclosure of these details could therefore cause existing plan sponsors
2 to seek to renegotiate long-standing contracts based on provisions that were carefully negotiated for
3 another plan sponsor with the specific considerations for that plan sponsor's business in mind.

4 6. All ASAs also include provisions on data security and privacy that could be exploited
5 by bad actors if publicly disclosed. Maintaining confidentiality over these security protocols is
6 particularly important given the sensitive nature of personal data and health information that United
7 has access to as part of its role as a managed care company.

8 7. Finally, ASAs may include provisions relating to indemnification or dispute resolution
9 mechanisms as between United and a plan sponsor, including mediation, litigation, and settlement
10 arrangements. Public disclosure of these provisions could give United's or a given plan sponsor's
11 adversaries an unfair advantage in any potential legal action brought against them.

12 8. Based on my years of experience in my role and from years of working with these
13 agreements, I understand that plan sponsors also view the ASAs and amendments thereto as
14 containing competitively sensitive information about their respective relationships with United, as
15 well as their respective benefits programs. For example, many plan sponsors keep their ASAs and
16 amendments closely guarded because they view the negotiation of service provider relationships as
17 critical to their ability to provide competitive benefits offerings to their employees, which in turn
18 impacts the plan sponsor's ability to attract and retain employees. For such plan sponsors,
19 maintaining confidentiality over ASAs and related documents allows the plan sponsors to negotiate
20 the best benefits packages they can for their employees, while ensuring their competitors cannot
21 readily undercut their benefits offerings and interfere with employee recruitment and retention. For
22 these reasons, in my experience, plan sponsors take the public disclosure of their ASAs and related
23 information very seriously. United's business relationship with certain of its plan sponsors could thus
24 be harmed, if confidential materials like these ASAs and their amendments become public.

25 9. The sensitive nature of these documents and the competitive harm that would result to
26 United and its plan sponsors from the public disclosure of these documents is not negated with
27 respect to documents that are unexecuted, in draft form, or older than a certain number of years. This
28 is true for a number of reasons.

1 10. With respect to ASAs that appear to be in non-final form with redlines (such as
2 portions of Exhibits 49, 51, 53, 55, and 57 to my Declaration), as explained above, United often
3 negotiates the terms of the ASAs with each plan sponsor. This means that each ASA can contain
4 unique provisions, terms, and arrangements that differ between plan sponsors and even between years
5 for the same plan sponsor. If information or negotiations unique to one plan sponsor were disclosed
6 to another plan sponsor, it could interfere with United's business relationship with other plan
7 sponsors, insofar as it might prompt them to renegotiate their ASAs to include provisions or terms
8 they would not otherwise be aware of had these documents not been publicly filed—even if those
9 terms or provisions aren't fully final—or give them an unfair advantage in future negotiations with
10 United. It could also cause a plan sponsor competitive harm in relation to employee retention and
11 recruitment, as discussed above. Moreover, to the extent a plan sponsor ASA contains a term or
12 provision that is no longer used in certain ASAs, that, too, could prompt renegotiation.

13 11. An unsigned ASA (such as portions of Exhibits 48 to 49, 51, 52, 53, 55, and 57 to my
14 Declaration) may still reflect the final, governing document between United and a plan sponsor. In
15 some cases—for example, due to a long-standing business relationship—United and a plan sponsor
16 treat the ASA as operative and binding without formally signing the ASA. In other cases, a final
17 executed version of the ASA may exist, but the version in United's records and produced in litigation
18 is the unsigned, but otherwise identical version. And in other situations, a document will not require
19 a signature from the parties to take effect, for example, with respect to certain letters memorializing
20 renewal service rates or performance guarantees. *See, e.g.*, portions of Exhibit 49 to my Declaration
21 and portions of Exhibit 25 to Plaintiffs' Motion. The fact that an ASA lacks a signature does not
22 negate the sensitivity of the ASA or change the harm that would result to United or a plan sponsor if
23 the ASA were publicly disclosed.

24 12. The same goes for ASAs that were executed or concern effective periods from more
25 than three years ago (such as portions of Exhibits 48 to 51, 52, 53, 54, 55, 56 and 57 to my
26 Declaration). Often an ASA executed years ago remains the operative agreement between United
27 and a plan sponsor, with modifications to exhibits and other provisions each year. Therefore, many
28 of the terms and provisions in an ASA executed years ago remain in effect and binding today and

1 remain competitively sensitive for all the reasons listed above. For example, even if the fees listed in
2 certain exhibits or fee schedules are re-negotiated every year, the component parts of those exhibits
3 often remain the same from year to year for a particular plan sponsor.

4 13. For these reasons, older, redlined, or unexecuted ASAs can nonetheless contain
5 competitively sensitive information that would harm United and the respective plan sponsor if
6 publicly disclosed. The paragraphs that follow provide additional, specific information about the
7 competitively sensitive nature of the ASAs and related documents that are the subject of this
8 Declaration:

9 14. **Exhibit 48 to my Declaration and Exhibit 25 to Plaintiffs' Motion at**
10 **UHC000007610-7646:** These documents consist of compilations of excerpts of ASAs and
11 amendments thereto executed between Apple, Inc. (or its affiliates) ("Apple") and United entity(ies).
12 Apple has been a United plan sponsor since July 2001. Though portions of Apple's ASAs and
13 amendments thereto in Exhibits 48 and 25 are unsigned and/or were executed more than three years
14 ago or concern effective periods from more than three years ago, they still remain sensitive for the
15 reasons I mentioned above. Because Apple and United have had a business relationship for more
16 than twenty years, public disclosure of Apple's ASAs also poses an acute competitive risk to United
17 to the extent that still-operative terms in Apple's ASAs are not used in United's contracts with newer
18 customers. Moreover, it is my understanding that Apple vigorously negotiates its contracts with
19 United, such that Apple's ASAs and amendments contain unique provisions in addition to all of the
20 sensitive types of information typically found in ASAs that I reference above (e.g., pricing and rate
21 information, performance guarantees, security procedures, and proprietary program offerings).

22 15. **Exhibit 49 to my Declaration and Exhibit 25 to Plaintiffs' Motion at**
23 **UHC000209094-UHC000209119:** These documents consist of compilations of excerpts of ASAs
24 and amendments thereto entered into between Cisco Systems, Inc. ("Cisco") and United entity(ies).
25 Cisco has been a United plan sponsor since January 2000. Though portions of Cisco's ASAs and
26 amendments thereto in Exhibits 49 and 25 are unsigned, contain redlines, and/or were executed more
27 than three years ago or concern effective periods from more than three years ago, they still remain
28 sensitive for the reasons I mentioned above. Because Cisco and United have had a business

1 relationship for more than twenty years, public disclosure of Cisco's ASAs also poses an acute
2 competitive risk to United to the extent that still-operative terms in Cisco's ASAs are not used in
3 United's contracts with newer customers. Moreover, it is my understanding that Cisco vigorously
4 negotiates its contracts with United, such that Cisco's ASAs and amendments contain unique
5 provisions in addition to all of the sensitive types of information typically found in ASAs that I
6 reference above (e.g., pricing and rate information, performance guarantees, security procedures, and
7 proprietary program offerings).

8 16. **Exhibit 50 to my Declaration:** These documents consist of compilations of excerpts
9 of ASAs and amendments thereto entered into between Delta Air Lines (or its affiliates) ("Delta")
10 and United entity(ies). Delta has been a United or United-affiliate plan sponsor since January 2001.
11 Though portions of Delta's ASAs and amendments thereto in Exhibit 50 were executed more than
12 three years ago or concern effective periods from more than three years ago, they still remain
13 sensitive for the reasons I mentioned above. Because Delta and United have had a business
14 relationship for more than twenty years, public disclosure of Delta's ASAs also poses an acute
15 competitive risk to United to the extent that still-operative terms in Delta's ASAs are not used in
16 United's contracts with newer customers. Moreover, it is my understanding that Delta vigorously
17 negotiates its contracts with United, such that Delta's ASAs and amendments contain unique
18 provisions in addition to all of the sensitive types of information typically found in ASAs that I
19 reference above (e.g., pricing and rate information, performance guarantees, security procedures, and
20 proprietary program offerings).

21 17. **Exhibit 51 to my Declaration and Exhibit 25 to Plaintiffs' Motion at**
22 **UHC000227920-228031:** This document consists of compilations of excerpts of ASAs and
23 amendments thereto entered into between General Dynamics Corporation ("General Dynamics") and
24 United entity(ies). General Dynamics has been a plan sponsor since January 2000. Though portions
25 of General Dynamics' ASAs and amendments thereto in Exhibit 51 are unsigned, contain redlines,
26 and/or were executed more than three years ago or concern effective periods from more than three
27 years ago, they still remain sensitive for the reasons I mentioned above. Moreover, some of the
28 exhibits to General Dynamics' ASAs were in effect in November 2022, when Plaintiffs first filed the

ASAs as exhibits in this action. Because General Dynamics and United have had a business relationship for more than twenty years, public disclosure of General Dynamics' ASAs also poses an acute competitive risk to United to the extent that still-operative terms in General Dynamics' ASAs are not used in United's contracts with newer customers. Moreover, it is my understanding that General Dynamics vigorously negotiates its contracts with United, such that General Dynamics' ASAs and amendments contain unique provisions in addition to all of the sensitive types of information typically found in ASAs that I reference above (e.g., pricing and rate information, performance guarantees, and proprietary program offerings).

18. **Exhibit 52 to my Declaration:** This document consists of compilations of excerpts of ASAs and amendments thereto executed between JP Morgan Chase Bank, N.A. (or its affiliates) ("JP Morgan") and United entity(ies). JP Morgan was a United plan sponsor from January 2002 to December 2019. Though portions of JP Morgan's ASAs and amendments thereto in Exhibit 52 are unsigned and/or were executed more than three years ago or concern effective periods from more than three years ago, they still remain sensitive for the reasons I mentioned above. Because JP Morgan and United had a business relationship for seventeen years, public disclosure of JP Morgan's ASAs also poses an acute competitive risk to United to the extent that terms in JP Morgan's ASAs are not used in United's contracts with newer customers. Moreover, it is my understanding that JP Morgan vigorously negotiated its contracts with United, such that JP Morgan's ASAs and amendments contain unique provisions in addition to all of the sensitive types of information typically found in ASAs that I reference above (e.g., pricing and rate information, performance guarantees, security procedures, and proprietary program offerings).

19. **Exhibit 53 to my Declaration:** These documents consist of excerpts of a 2012 ASA and supplemental agreements thereto entered into between McMaster-Carr Supply Company ("McMaster-Carr") and United entity(ies). McMaster-Carr has been a plan sponsor since January 2012. Though portions of McMaster-Carr's ASA in Exhibit 53 and 25 are unsigned, contain redlines, and/or were executed more than three years ago or concern effective periods from more than three years ago, they still remain sensitive for the reasons I mentioned above. Because McMaster-Carr and United have had a business relationship for more than ten years, public disclosure of McMaster-

Carr's ASAs also poses an acute competitive risk to United to the extent that still-operative terms in McMaster-Carr's ASAs are not used in United's contracts with newer customers. Moreover, it is my understanding that McMaster-Carr vigorously negotiates its contracts with United, such that McMaster-Carr's ASA and supplemental agreements contain unique provisions in addition to all of the sensitive types of information typically found in ASAs that I reference above (e.g., pricing and rate information, performance guarantees, security procedures, and proprietary program offerings).

20. **Exhibit 54 to my Declaration and Exhibit 25 to Plaintiffs' Motion at NUSA-UBH-00000001-60:** This document consists of a 2016 ASA entered into between Nestle USA (or its affiliates) ("Nestle") and United entity(ies). Nestle was a plan sponsor between January 1997 and December 2019. Though Nestle's ASA in Exhibit 54 was executed more than three years ago, it still remains sensitive for the reasons I mentioned above. Because Nestle and United had a business relationship for more than 20 years before Nestle stopped using United's services, public disclosure of Nestle's ASAs also poses an acute competitive risk to United to the extent that terms in Nestle's ASAs are not used in United's contracts with newer customers. Moreover, it is my understanding that Nestle vigorously negotiated its contracts with United before Nestle stopped using United's services, such that Nestle's ASA and supplemental agreements contain unique provisions in addition to all of the sensitive types of information typically found in ASAs that I reference above (e.g., pricing and rate information, performance guarantees, security procedures, and proprietary program offerings).

21. **Exhibit 55 to my Declaration:** This document consists of compilations of excerpts of ASAs and amendments thereto entered into between Oracle Corporation ("Oracle") and United entity(ies). Oracle has been a plan sponsor since January 2001. Though portions of Oracle's ASAs and amendments thereto in Exhibit 55 are unsigned and/or were executed more than three years ago or concern effective periods from more than three years ago, they still remain sensitive for the reasons I mentioned above. Because Oracle and United have had a business relationship for more than twenty years, public disclosure of Oracle's ASAs also poses an acute competitive risk to United to the extent that still-operative terms in Oracle's ASAs are not used in United's contracts with newer customers. Moreover, it is my understanding that Oracle vigorously negotiates its contracts with

1 United, such that Oracle's ASAs and amendments contain unique provisions in addition to all of the
2 sensitive types of information typically found in ASAs that I reference above (e.g., pricing and rate
3 information, performance guarantees, and proprietary program offerings).

4 **22. Exhibit 56 to my Declaration and Exhibit 25 to Plaintiffs' Motion at**

5 **UHC000258819-258885:** This document consists of a 2016 ASA entered into between Raytheon
6 Company ("Raytheon") and United entity(ies). Raytheon has been a United or United-affiliate plan
7 sponsor since January 1999. Though Raytheon's ASA in Exhibit 34 was executed more than three
8 years ago, it remains sensitive for the reasons I mentioned above. Because Raytheon and United
9 have had a business relationship for more than 20 years, public disclosure of Raytheon's ASAs also
10 poses an acute competitive risk to United to the extent that still-operative terms in Raytheon's ASA
11 are not used in United's contracts with newer customers. Moreover, it is my understanding that
12 Raytheon vigorously negotiates its contracts with United, such that Raytheon's ASA contains unique
13 provisions in addition to all of the sensitive types of information typically found in ASAs that I
14 reference above (e.g., pricing and rate information, performance guarantees, security procedures, and
15 proprietary program offerings).

16 **23. Exhibit 57 to my Declaration and Exhibit 25 to Plaintiffs' Motion at**

17 **UHC000008308-8388:** These documents consist of a draft ASA between Tesla, Inc. ("Tesla") and
18 United entity(ies) with an effective date of January 1, 2018. Tesla was a plan sponsor between
19 January 2018 and December 2021. Though Tesla's ASA in Exhibit 57 was not executed and contains
20 redlines and comments, it remains sensitive for the reasons I mentioned above. Moreover, it is my
21 understanding that Tesla vigorously negotiated its contracts with United before it stopped using
22 United's services, such that Tesla's ASA contains unique provisions in addition to all of the sensitive
23 types of information typically found in ASAs that I reference above (e.g., pricing and rate
24 information, performance guarantees, security procedures, and proprietary program offerings).

25 **24.** For all of the reasons mentioned above, Exhibit 25 to Plaintiffs' Motion and Exhibits
26 48 to 57 to my Declaration contain competitively sensitive, proprietary information that would harm
27 United Defendants and its plan sponsors if publicly disclosed, regardless of the document's age or
28 draft status.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

19-Jun-2024 | 9:11 AM PDT

Date

DocuSigned by:

Jeff Schneewind

9B2E54005E4145D...

Jeff Schneewind